

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

PARALLEL NETWORKS, LLC

Plaintiff,

V.

NETFLIX, INC.;
SKYMALL, INC.;
ATA AIRLINES, INC.;
JOHN WILEY & SONS, INC.;
E*TRADE FINANCIAL CORPORATION; and
THE FINISH LINE, INC.,

Defendants.

Civil Action No. 2:07-cv-562-LED

ORIGINAL COMPLAINT

Plaintiff, Parallel Networks, LLC, brings this action for patent infringement and alleges the following:

I. PARTIES

1. Plaintiff Parallel Networks, LLC ("Parallel Networks") is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas.

2. On information and belief, defendant Netflix, Inc. ("Netflix") is a Delaware corporation, with its principal place of business at 100 Winchester Circle, Los Gatos, California 95032, and is doing business in the Eastern District and elsewhere in the State of Texas. Netflix may be served with process by service upon its registered agent, National Registered Agents, Inc., 16055 Space Center, Suite 235, Houston, Texas 77062.

3. On information and belief, defendant SkyMall, Inc. ("SkyMall") is a Delaware corporation, with its principal place of business at 1520 East Pima Street, Phoenix, Arizona 85034. Although SkyMall has done—and continues to do—business in the Eastern District and

elsewhere in the State of Texas, it has not designated or maintained an agent for service of process in Texas. Accordingly, pursuant to Section 17.044 of the Texas Civil Practice and Remedies Code, SkyMall may be served with process by service upon the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701.

4. On information and belief, defendant ATA Airlines, Inc. ("ATA") is an Indiana corporation, with its principal place of business at 7337 West Washington Street, Indianapolis, Indiana 46231, and is doing business in the Eastern District and elsewhere in the State of Texas. ATA may be served with process by service upon its registered agent, The Prentice-Hall Corporation System, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

5. On information and belief, defendant John Wiley & Sons, Inc. ("John Wiley") is a New York corporation, with its principal place of business at 111 River Street, Suite 2000, Hoboken, New Jersey 07030, and is doing business in the Eastern District and elsewhere in the State of Texas. John Wiley may be served with process by service upon its registered agent, The Prentice-Hall Corporation System, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

6. On information and belief, defendant E*TRADE Financial Corporation ("E*TRADE") is a Delaware corporation, with its principal place of business at 135 East 57th Street, New York, New York 10022. Although E*TRADE has done—and continues to do—business in the Eastern District and elsewhere in the State of Texas, it has not designated or maintained an agent for service of process in Texas. Accordingly, pursuant to Section 17.044 of the Texas Civil Practice and Remedies Code, E*TRADE may be served with process by service upon the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701.

7. On information and belief, defendant The Finish Line, Inc. ("Finish Line") is an Indiana corporation, with its principal place of business at 3308 North Mitthoeffer Road, Indianapolis, Indiana 46235, and is doing business in the Eastern District and elsewhere in the

State of Texas. Finish Line may be served with process by service upon its registered agent, Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

II. JURISDICTION AND VENUE

8. This infringement action arises under the patent laws of the United States, title 35, United States Code. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331, 1338(a).

9. All of the defendants have done—and continue to do—business in the Eastern District of Texas. All defendants have minimum contacts with the Eastern District of Texas such that this venue is a fair and reasonable one. The defendants have committed purposeful acts or transactions in the State of Texas such that they reasonably knew and expected that they could be haled into a Texas court as a consequence of such activity. Accordingly, venue in the Eastern District of Texas is proper under 28 U.S.C. §§ 1391(b), 1400(b).

III. PATENT INFRINGEMENT

10. On April 13, 1999, and July 2, 2002, United States Patent Nos. 5,894,554 and 6,415,335 B1, which are collectively referred to as the "Parallel Networks Patents," duly and legally issued. These two patents concern, among other things, systems and methods for managing dynamic Web page generation requests. Copies of the Parallel Networks Patents are attached hereto as Exhibits "A" and "B" and made a part hereof.

11. Parallel Networks is the owner of the Parallel Networks Patents and has the right to enforce those patents with respect to the defendants.

12. On information and belief, defendants make and/or use systems and methods for managing dynamic Web page generation requests within the scope of one or more of the claims of the Parallel Networks Patents. As a result, all of the defendants have been and still are infringing one or more of the claims of the Parallel Networks Patents as defined by 35 U.S.C. § 271 (a), (b), and/or (c). Parallel Networks has suffered damage by reason of defendants'

infringement and will continue to suffer additional damage until this Court enjoins the infringing conduct.

13. To the extent that defendants have continued or do continue their infringing activities after receiving notice of the Parallel Networks Patents, such infringement is willful, entitling Parallel Networks to the recovery of increased damages under 35 U.S.C. § 284.

14. This is an "exceptional case" justifying an award of attorneys' fees and costs to Parallel Networks pursuant to 35 U.S.C. § 285.

15. Parallel Networks believes that defendants will continue to infringe the Parallel Networks Patents unless enjoined by this Court. Such infringing activity causes Parallel Networks irreparable harm and will continue to cause such harm without the issuance of an injunction.

IV. JURY DEMAND

16. Plaintiff requests trial by jury pursuant to Federal Rule of Civil Procedure 38.

V. PRAYER FOR RELIEF

17. Parallel Networks requests that the Court find in its favor and against defendants and that the Court grant the following relief:

- a. Judgment that one or more of the claims of the Parallel Networks Patents have been infringed, either literally and/or under the doctrine of equivalents, by defendants;
- b. Judgment in favor of Parallel Networks for the full amount of its actual damages caused by defendants' infringing activities, including an assessment of interest and costs;
- c. Judgment for increased damages for willful infringement pursuant to 35 U.S.C. § 284;
- d. Judgment that this is an "exceptional case" and awarding Parallel Networks its reasonable attorneys' fees and costs pursuant to 35 U.S.C. § 285;

- e. That defendants be permanently enjoined from further activity or conduct that infringes the claims of the Parallel Networks Patents; and
- f. That the Court award Parallel Networks such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Larry D. Carlson

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